

**PLAINTIFF'S OBJECTION TO ORDER
PURSUANT TO FED. R. CIV. P. 72(a)**

EXHIBIT L

From: loahelp
To: Hack, Jeff
Subject: Initial Leave Request: Steve Barger, S09, Jennifer Voycheske
Date: Wednesday, November 23, 2016 10:04:30 AM

EMPLOYEE INFORMATION - As of: 11/23/2016

Employee Name: Steve Barger

Employee ID: 247809

INITIAL LEAVE REQUEST - Sent on: 11/23/2016

Please note this is ONLY a request. You will be notified of a formal approval, denial, or cancellation as soon as it is available.

The medical forms deadline for this employee is 12/08/2016

Leave Type: Continuous

Leave Reason: Employee Illness

Last Date of Work: 11/18/2016

Requested Start Date: 11/21/2016

Estimated Return Date: 02/13/2017

Payroll Status:

STD Pending – Central Payroll must monitor pay. Manager should not submit time in OOO.

From: Johnson, Rhonda J.
To: VOYCHESKE, JENNIFER L.
Subject: RE: Forms Received: Barger, Steve-247809-S09-GA-Scott Owen
Date: Thursday, December 15, 2016 6:25:27 PM
Attachments: image001.jpg
image002.jpg

Rhonda Johnson is VP of HR
Jeff Hack is Barger's Supervisor on 12/15/16

I'll reach out to Steve and advise that he needs to have his wife call Met Life to submit the STD request.

As of 12/15/16 No STD Request Submitted to MetLife

As always, thank you so much for the details. I'll notify Jeff Hack, EVP (Steve's manager), that he will receive the e-mail notification you mentioned below.

Thank you for making this process so much easier on Steve and I!

From: VOYCHESKE, JENNIFER L.
Sent: Thursday, December 15, 2016 6:23 PM
To: Johnson, Rhonda J.
Subject: RE: Forms Received: Barger, Steve-247809-S09-GA-Scott Owen

Hi Rhonda,

I received the necessary medical documentation from Steve's doctor and I have approved his leave request through the 12 week FMLA period ending 1/16/17. I will request the additional time needed from the business as the 12 weeks of FMLA draws to an end. An email has been sent to his manager and a letter has been sent to his home.

I don't see that a Short Term Disability claim has not yet been filed for Steve as of yet. Do you know if someone will be taking care of that on his behalf? His short term disability pay will not start until a claim is filed with MetLife and the necessary medical information is received on their end.

They can be reached at 1-877-MET-4FDC.

Let me know if you need additional assistance.

STD won't start until claim submitted. No STD claim submitted as of 12/15/16. Yet, somehow on 01/05/17, STD period is retroactively determined to start on 09/04/16 causing FMLA leave to be retroactively redesignated to 09/06/16 with leave expiring on 11/28/16, 17 days prior to this E-mail indicating that no STD claim had been submitted.

Thanks!

Jennifer Voycheske
HR Manager: Leave Management & HR Solutions
First Data, 7301 Pacific Street, Omaha, NE 68114
Office: 402-777-3708 | Mobile: 402-212-2863

Jennifer.Voycheske@firstdata.com | firstdata.com



From: loahelp(/O=FDC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LOAHELP)
To: Hack, Jeff
CC:
BCC:
Subject: Leave Approval - Continuous, Steve Barger, S09, Jennifer Voycheske
Sent: 12/15/2016 11:06:57 PM 0000 (GMT)
Attachments:

EmployeeID: 247809

Employee Name: Steve Barger

Approved Eligibility: FMLA Medical

Approved Leave Start Date: 10/24/2016

Approved Return to Work Date: 01/16/2017 *FMLA time exhausts on this date. A request will be sent to the business unit to determine approval of additional time.

Central Payroll must monitor pay.

7301 Pacific Street A19
Omaha, NE 68114-5447

12/15/2016

Steve Barger
95 Tamarisk Drive
Atlanta, GA 30342

Dear Steve:

Your request for a leave of absence meets the criteria and qualifies as a leave under the Family and Medical Leave Act ("FMLA"), and therefore has been approved for the following dates:

Leave Start Date: 10/24/2016
Expected Return to Work Date: 01/16/2017

***Your FMLA approved time exhausts on 01/16/2017. A request will be sent to your business unit to determine approval of additional time.**

Reminder: If you have not yet spoken with a MetLife representative regarding short-term disability (STD), please contact MetLife directly at 1-877-MET-4FDC (1-877-638-4332) Monday through Friday from 8 a.m. to 8 p.m. eastern time to begin this process. Failure to contact MetLife to initiate the short-term disability claim process may result in a pay delay and/or discrepancy in pay.

Compliance Training: If you are assigned compliance training while on a leave of absence, and that training becomes overdue, you will receive one or more overdue notices upon your return to work. Please ensure you take the applicable training within one week of your return to work to ensure compliance.

In addition, because your leave request is due to your own serious health condition, the attached Physician's Return to Work form must be completed and sent to Leave Management prior to your return. This information should be faxed to 1-866-620-8941.

If you have any questions, please contact Leave Management at 1-888-348-4835, Option #1.

Sincerely,

Leave Management Team
First Data HR Service Center

From: loahelp(/O=FDC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LOAHELP)
To: Johnson, Rhonda J. VP of HR. Johnson is not Barger's supervisor or in his corporate chain of command
CC:
BCC:
Subject: Leave Approval - Continuous, Steve Barger, S09, Jennifer Voycheske
Sent: 01/05/2017 11:15:20 PM 0000 (GMT) 6:15:20 PM on 01/05/17
Attachments:

EmployeeID: 247809

Employee Name: Steve Barger

Approved Eligibility: FMLA Medical

Approved Leave Start Date: 09/05/2016

Approved Return to Work Date: 11/28/2016 *FMLA exhausted on this date Approval of additional time will be requested from the business unit.

Initial Leave Request submitted 11/23/16. See FDC00000380. Page 1 of this Exhibit K Retroactive Redesignation at 6:15 pm on 01/05/17 declares FMLA leave exhausted on 11/28/16, just five days after the initial request and 17 days prior to the original designation on 12/17/16

Central Payroll must monitor pay.

From: VOYCHESKE, JENNIFER L./O=FDC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS /CN=A7ECD5F4-F1B4D32D-85257219-303D02)

To: Johnson, Rhonda J.

CC:

BCC:

Subject: Leave Extension Request - Steve Barger

Sent: 01/05/2017 11:26:20 PM 0000 (GMT)

Attachments:

Johnson is not Barger's Supervisor
Email sent 6:26:20 pm on 01/05/17

Hi Rhonda,

As discussed, please see the request below to extend Steve Barger's current leave of absence.

EMPLOYEE INFORMATION - As of: 01/05/2017

Employee Name: Steve Barger

Employee ID: 247809

ADA LEAVE EXTENSION REQUEST - Sent on: 01/05/2017

Leave Type: Continuous

Leave Reason: Employee Illness

Last Date of Work: 09/02/2016

Requested Start Date: 11/28/2016

Estimated Return Date: 01/17/2017

FIRST DATA KNOWLEDGE OF INTENDED RETURN
AT TIME OF RETROACTIVE REDESIGNATION

Upon receipt of updated medical documentation, it has been brought to our attention that Steve exhausted his FMLA leave time on 11/28/2016. Any additional leave time beyond 11/28/2016 requires business unit approval. According to Steve's physician, he is not scheduled to return to work until approximately 03/01/2017, however, Steve has indicated he plans to be released to return to work on 01/17/2017. Actual return date is unknown at this time.

Is the business willing to approve the extension of Steve's leave of absence through at least 1/17/2017, possibly 03/01/2017? Please let me know your thoughts.

Payroll Status:

STD Pending - Central Payroll must monitor pay.

Thank you!

Jennifer Voycheske

HR Manager: Leave Management & HR Solutions

First Data, 7301 Pacific Street, Omaha, NE 68114

Office: 402-777-3708 | Mobile: 402-212-2863

STD PENDING CONTRADICTS TESTIMONY RE: METLIFE INDICATE APPROVED STD FROM SCREENSHOT - EXHIBIT 2 TO FIRST DECLARATION AND EXHIBIT 6 FROM SECOND DECLARATION

Jennifer.Voycheske@firstdata.com | firstdata.com

First Data

From: loahelp(/O=FDC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LOAHELP)
To: VOYCHESKE, JENNIFER L.
CC:
BCC:
Subject: Not Eligible for FMLA: Steve Barger, S09, Jennifer Voycheske
Sent: 01/05/2017 11:28:33 PM 0000 (GMT)
Attachments:

6:28:33 01/05/17 - Request for leave prepared after E-mail to Johnson

Time off Request as of: 1/5/2017 6:16:40 PM
Leave Type: Continuous
Leave Reason: Employee Illness
Last date of work: 09/02/2016
Requested Start Date: 11/28/2016
Estimated Return Date of Recertification Date: 01/17/2017

You have requested time off from the Leave of Absence department. At this time this request is does not meet the requirements for a Leave of Absence.

Please note: The time off requested is not eligible for a Leave of Absence and if the Business Unit is not able to support the Time Off Request, any absences may be held to the attendance policy.

From: loahelp(/O=FDC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=LOAHELP)
To: VOYCHESKE, JENNIFER L.
CC:
BCC:
Subject: Time Off Request Leave of Absence: Steve Barger, S09, Jennifer Voycheske
Sent: 01/05/2017 11:28:34 PM 0000 (GMT)
Attachments:

EMPLOYEE INFORMATION - As of: 01/05/2017

Employee Name: Steve Barger
Employee ID: 247809

TIME OFF REQUEST - Sent on: 01/05/2017

Leave Type: Continuous
Leave Reason: Employee Illness
Last Date of Work: 09/02/2016
Requested Start Date: 11/28/2016
Estimated Return Date: 01/17/2017

Request for leave was on 11/23/16. See FDC00000380

The Leave Management Team has received a Time Off Request from this employee. At this time we are unable to process the request as a FMLA leave because the employee does not meet all of the eligibility requirements.

To be eligible for a FMLA leave under First Data's policy, they must have been employed by the Company for 52 weeks, worked 1250 hours in the last 12 months, and have remaining FMLA time available. The employee does not meet the following eligibility requirement:

Employed by the Company for 52 weeks

Worked 1250 hours in the last 12 months, 2076 is the current number of hours we have listed in the system.

No remaining FMLA time available -According to our records, you will start to regain FMLA time as of 11/28/2017 and you may call back to initiate a leave after this time, if the need for a leave remains. We will at that time, be able to recalculate your FMLA time and consider your LOA eligibility based on your leave needs.

Request does not meet the guidelines for FMLA/LOA or is not medically related

You may be receiving a request from this employee for time off. At this time, it is the business's responsibility to approve any time off requested by this employee.

PLEASE NOTE: While the time off requested is not eligible for a Leave of Absence under FMLA, ADA or CA/NJ state protected time, the dates will be tracked by Leave Management. If the employee is salaried (exempt) OR out more than 14 days due to their own illness, please ensure they call Leave Management at the number below if the begin and/or end date of the Time Off Request changes, as this can affect their pay. The same instructions have been provided to the employee via a letter from Leave Management.

Payroll Status:
STD Pending - Central Payroll must monitor pay.